REMARKS

Upon entry of this supplemental amendment, claims 1-2, 4, 6-19.22-28, 31-33, and 38-41 remain pending in the application. By this paper, claims 1, 17, 22-28, and 31-32 have been amended. No new matter is believed to be introduced by these amendments. Reconsideration and allowance of the application in light of the amendments and arguments herein is respectfully requested.

Examiner Interview Summary

The undersigned attorney, together with John Rauch, held a telephonic Examiner's Interview on February 6, 2008. The items discussed included whether amendments in the last response, dated January 10, 2008, were sufficient to overcome rejections under 35 U.S.C. § 101. Examiner Lee expressed concern that some of the amendments would be considered new matter. Also discussed was the extent to which the Applicants submit that the pending claims, as amended, distinguish over U.S. Patent No. 6,379,251 ("Auxier") in view of U.S. Patent No. 6,826,594 ("Petterson"). No agreements were reached.

35 U.S.C. § 101 Rejections

The Office Action rejected claims 1-21 under 35 U.S.C. § 101 because, according to page 10, lines 6-7 of the specification, "a system" is intended to include software per se, which is not statutory subject matter. Claims 22-27 drawn to "an enhancement mechanism" were rejected for the same reason based on the same passage from the specification. Claims 28-32 drawn to "a program product" were rejected for the same reason based on page 10, lines 17-18 of the specification.

The Applicants herein further amend two paragraphs of the specification and a few of the claims to avoid potential new matter issues in the amendments made in their January 10, 2008 response. In some cases, added language simply replaces language that was deleted in this last response and deleted language removes language added in

the last response. The Applicants believe that the current amendments both avoid new matter issues and overcome the § 101 rejections.

The paragraph of the specification beginning on page 10, line 6 was amended as displayed above for clarity in regards to software. The term "software" by itself on line 7 remains deleted to make clear that the invention, if implemented in software, includes the hardware on which the software is executed. No new matter is added by this deletion.

Claims 22-27 have been amended to a set of method claims; accordingly, the Applicants respectfully submit that the § 101 issue with "enhancement mechanism" is now moot.

With regards to claim 28, the Office Action cites to page 10, lines 17-18 of the specification to support the contention that a "program product" is intended to be software per se. As an initial observation, line 18 ends in the middle of a larger sentence that states "any expression, in any language, code or notation, or set of instructions intended to cause a system having an information processing capability to perform a particular function either directly or after either or both of the following: (a) conversion to another language, code or notation; and/or (b) reproduction in a different material form." This language indicates that the "program product" referred to runs on a system with processing capability, e.g., a computer system.

Nevertheless, for clarity, claim 28 is amended to read "[a] computer readable medium including program code that causes a computer to perform the operations of," after which is listed the steps implemented by such a computer on which runs the computer readable medium including the program code. This is a slight variation from the previously-amended language to ensure that there exists support under 25 U.S.C. § 112, e.g., because the term "machine" is not used in the specification with reference to hardware. The above language adds no new matter. The Application states that:

> [i]t should also be appreciated that the real time content enhancement system (RCES) 14 of the present invention can be implemented as a stand alone system (e.g., **on a personal computer**), and need not be implemented over a network. Thus, for example, RCES 14 could be implemented as a software program that, for example, imports a content object (e.g., an image) from **a local storage** and outputs an enhanced

> content object (e.g., a game that incorporates the image) on the local system. Accordingly, the present invention can be implemented in any interactive environment, including both network environments and stand alone environments.

Page 9, line 18 to Page 10, line 2 (emphasis added). The Application also states that:

> The present invention **can also be embedded in a computer program product**, which comprises all the features enabling the implementation of the methods and functions described herein, and which - when loaded in a computer system - is able to carry out these methods and functions.

Page 10, lines 13-15 (emphasis added). In context, these two passages, which occur in sequential paragraphs, make clear that the invention may by implemented by a personal computer (or a server) that includes "a storage." Networked systems and servers are also referred to in the Application, and the above passages make clear that the invention may be implemented in a networked or in a stand alone environment. If the former, the system may involve a server, which is also a computer.

It is common knowledge by those of ordinary skill in the art that "storage" refers to memory, and the above computer systems include "storage." A search for "computer storage" on Google or Yahoo! results in a Wikipedia entry for "computer data storage" at the top of the search results. The definition in Wikipedia for "computer data storage" includes:

> **often called storage *or* memory** refer to computer components, devices **and recording media** that retain digital data used for computing for some interval of time. Computer data storage provides one of the core functions of the modern computer, that of information retention.

http://en.wikipedia.org/wiki/Computer_storage (emphasis added). Storage is synonymous with memory. Because of the use of the terms computer (or computer system), data, and storage (or memory) in this application, the amendments to claim 28 are supported. The phrase, the invention "can also be embedded in a computer program product . . . which - when loaded in a computer system - is able to carry out these methods and functions," page 10, lines 13-15, also supports "[a] computer readable medium including program code that causes a computer to perform the operations of," despite use of the term "product" in lieu of the term "medium." One of

ordinary skill in the art would instantly appreciate that "product" in this instance is made with reference to a digital media such as a compact disc or other product on a computer readable medium meant to run on a computer to execute the software program.

Accordingly, the Applicants submit that a claim drawn to a computer readable medium including program code such as a so-called "In re Beauregard" claim is patentable subject matter and the rejection is respectfully requested to be withdrawn. For instance,

> [w]hen functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.

MPEP § 2106.01.

35 U.S.C. § 103 Rejections

Claims 1-8, 10-13, 16-27, and 33-38 were rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,379,251 ("Auxier") in view of U.S. Patent No. 6,826,594 ("Petterson"). Claims 9 and 28-32 were rejected under § 103(a) as being unpatentable over Auxier and Pettersen in view of U.S. Patent No. 6,785,659 ("Landsman"). Claim 14 was rejected under § 103(a) as being unpatentable over Auxier and Pettersen in view of U.S. Patent No. 6,061,660 ("Eggleston"). Claim 15 was rejected under § 103(a) as unpatentable over Auxier and Pettersen in view of U.S. Patent No. 6,790,138 ("Erlichman"). The Applicants respectfully submit that these references, alone or combined, do not teach each and every feature of the claims.

As amended, claim 1 recites a computer system for enhancing a content object, including:

> a storage memory;
> a browser to download a web resource from a host server to a client computer and be stored in the storage memory, wherein an enhancement mechanism is downloaded with the network resource, wherein the enhancement mechanism includes:
> a request/load module for requesting and loading a content object from a content server to the client computer, wherein the

> content object is selected from the group consisting of an image and a banner ad;
>
> an enhancement module for altering an output format of the content object in real time, wherein the enhancement module rearranges image data of the content object and operates on content objects having any of a plurality of formats; and
>
> an application programming interface (API) through which the content object passes before access by the enhancement module; and
>
> wherein the content object is loaded into the enhancement mechanism in one of a plurality of formats that do not require customization.

Both Auxier and Pettersen fail to teach "wherein the content object is loaded into the enhancement mechanism in one of a plurality of formats that do not require customization." The Office Action points to Auxier, column 4, lines 35-40, for disclosure of this feature. This passage states that "ad server 120 determines the type of ad that should be displayed, and returns banner ad data to client computer 130." Later, Auxier discloses that

> the banner ad data is represented by a segment of HTML code that includes text, image pointer tags, and applet tags. Upon execution of the segment of HTML code in step 312, client computer 130 will then proceed to retrieve all of the pieces of data necessary to generate the banner ad.

Column 4, lines 41-46. Not only do these passages not teach the recited feature, they tend to indicate that some form of customization is required by putting together the necessary pieces for display of the banner ad. Nowhere does Auxier or Pettersen disclose that the enhancement mechanism receives the content object in "one of a plurality of formats that do not require customization." Just because Auxier states that it determines the type of ad that should be displayed does not mean it does not require customization or even that the ad is of a type it is capable of displaying.

Auxier in view of Pettersen further fail to disclose that any "enhancement module" alters an output format of the content object "in real time." This language was imported from cancelled dependent claim 20. The Office Action cites to Auxier, column 4, lines 35-53 for this feature. The Office Action, however, on page 5, item 16, concedes that Auxier does not specifically teach "that the enhancement module rearranges image data

of the content object." Accordingly, the process described in Auxier, column 4, lines 35-53 include steps taken whereby a banner ad is served with an applet executable code from an ad server, but says nothing about rearrangement of the banner ad "in real time." The specification as alluded to in the Office Action defines "real time" as "the content object [being] altered by the RCES without prior adjustment, customization, or any other preparation of the content object for its use by the RCES." Page 9, lines 13-15 (emphasis added). That rearrangement of the content object is done in "real time" is not disclosed by Auxier or Pettersen.

The Applicants also caution against conflation of the term "dynamically" with "in real time" as those respective terms are defined. Because it is disclosed that a web page can be "dynamically rearranged" does not disclose that an enhancement module alters an output format of a content object in real time.

For at least these reasons, claim 1 is patentable over Auxier in view of Pettersen. Likewise, claims 2, 4, and 6-19 are believed to be patentable by virtue of their dependency from claim 1.

Claim 33 includes similar amendments to those of claim 1 and is patentable for at least the same reasons discussed above. Furthermore, amended claim 33 recites "executing the enhancement module in real time such that image data from the content object is rearranged to convert the content object into a game." The Office Action, on page 10, item 32, contends that conversion of a content object into a game is disclosed by Auxier at column 5, lines 43-47. This passage, however, simply discloses a gaming function based on a user interactivity feature that is "not shown." There is simply no hint or suggestion that an enhancement module "in real time" is executed such that "image data from the content object is rearranged to convert the content object into a game." Furthermore, Pettersen makes no mention of user interaction or creating games of any rearranged images. Accordingly, there is no reason that Pettersen would be used in conjunction with Auxier by one of skill in the art, and the two references, as combined, simply fail to disclose executing the enhancement module in real time such that image data from the content object is rearranged to convert the content object into a game.

For at least these reasons, claim 33 is patentable over Auxier in view of Pettersen. Likewise, claims 38-41 are believed to be patentable by virtue of their dependency from claim 33.

Claim 22, as amended, recites "enhancing the content object with at least one of a plurality of enhancement modules, wherein each enhancement module causes a different visual alteration of the loaded content object in real time." The Office Action points to Pettersen, column 11, lines 40-67, for this teaching. This paragraph, however, recites a laundry list of types of possible dynamic content that may be inserted into a web page at various times, in addition to revenue links insertable within dynamic content.

While Pettersen teaches that "the nature and character of the potential revenue links contained in these varying web pages 793 might be dynamically changed," it does not teach "wherein each enhancement module causes a different visual alteration of the loaded content object." This is because the very next sentence in Pettersen discloses "[f]or example, the revenue links might be displayed as banner ads one time, and as buttons or hyperlinks another time, or at different times of day." This teaches against claim 22 which recites "a different visual alteration of the ***loaded*** content object," not a different content object at another time. In other words, claim 22 requires a content object to be loaded for viewing and then the enhancement that occurs is to provide a different visual alteration of the ***loaded content***.

The Office Action disagrees with this argument, and further points to Pettersen column 11, lines 21-23 and lines 62-67 that discuss revenue links that "might be dynamically changed." The Applicants reiterate, however, that these passages of Pettersen do not clearly disclose that the loaded content object is undergoing the alteration in lieu of simply loading another variation or a completely new content object. Pettersen, column 10, lines 42-50 also simply discusses how dynamic content is passed from a content database into a web page "zone," but lacks disclosure in regards to alterations of that dynamic content once it is loaded into the system browser.

Furthermore, similarly as discussed above with reference to claims 1 and 33, Auxier in view of Pettersen do not teach that an enhancement module that alters or causes a different visual alteration of the loaded content object "in real time."

Claim 22, as amended, also recites loading the content object for viewing "by a user in one of a plurality of formats that do not require customization." As discussed above with reference to claim 1, Auxier and Pettersen do not teach this feature.

For at least these reasons, claim 22 is patentable over Auxier in view of Pettersen. Claims 23-27 are believed to also be patentable by virtue of their dependency from claim 22.

Claim 28, as amended, recites "wherein each of the plurality of enhancement modules causes a different visual alteration of the passed content object to, in real time, convert the content object into a scrambled version of the content object to create an interactive game for a viewing user." The first feature recited here was just discussed above with reference to claim 22. Claim 28 is patentable for at least the same reason, e.g., that Auxier and Pettersen do not disclose causing "a different visual alteration of the passed content object." Furthermore, as discussed previously, Auxier and Pettersen do not disclose that the alteration of the content object is "in real time." Finally, Auxier and Pettersen do not disclose that the visual alternation of the content object is to "convert the content object into a scrambled version of the content object to create an interactive game for a viewing user." The distinguishing aspects of these features were discussed with reference to claim 33 and will not be repeated here.

These features that are missing in Auxier and Pettersen are not taught in Landsman, which was cited for teaching the "proxy system" feature of claim 28. Accordingly, Landsman does not make up for a deficiency in the above-recited features.

For at least these reasons, claim 22 is patentable over Auxier and Pettersen in view of Landsman. Claims 31-32 are believed to also be patentable by virtue of their dependency from claim 28.

With this response, the application is believed to be in condition for allowance. Should the examiner deem another telephone conference to be of assistance in advancing the application to allowance, the examiner is invited to call the undersigned attorney at the below telephone number.

Respectfully submitted,

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